

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

WILLIAM CARRUBE,

Plaintiff,

v.

**3:08-CV-830
(FJS/VEB)**

**MICHAEL J. ASTRUE, Commissioner,
Social Security Administration,**

Defendant.

APPEARANCES

OF COUNSEL

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Attorneys for Defendant

TOMASINA DIGRIGOLI, ESQ.

SCULLIN, Senior Judge

ORDER

In a Report and Recommendation dated December 2, 2009, Magistrate Judge Bianchini recommended that this Court find that the Commissioner's decision denying Plaintiff's application for Supplemental Security Income was not supported by substantial evidence and not determined in accordance with the law. *See* Dkt. No. 18. Furthermore, Magistrate Judge Bianchini recommended that this Court remand the Commissioner's decision denying disability

benefits for further proceedings. *See id.* Neither party objected to these recommendations.

When reviewing the Commissioner's final decision, the court must determine whether the Commissioner applied the correct legal standards and whether substantial evidence supports the decision. *See Urtz v. Callahan*, 965 F. Supp. 324, 326 (N.D.N.Y. 1997) (citing *Johnson v. Bowen*, 817 F.2d 983, 985 (2d Cir. 1987)). Although the Commissioner is ultimately responsible for determining a claimant's eligibility, an Administrative Law Judge ("ALJ") makes the actual disability determination; and that decision is subject to judicial review on appeal. A court may not affirm an ALJ's decision if it reasonably doubts that the ALJ applied the proper legal standards, even if it appears that the ALJ's decision is supported by substantial evidence. *See Johnson v. Bowen*, 817 F.2d 983, 986 (2d Cir. 1987). Additionally, the ALJ must set forth the crucial factors justifying his findings with sufficient specificity to allow a court to determine whether substantial evidence supports the decision. *See Ferraris v. Heckler*, 728 F.2d 582, 587 (2d Cir. 1984) (citation omitted).

When a party makes specific objections to a magistrate judge's report, the district court engages in *de novo* review of the issues raised in the objections. *See Farid v. Bouey*, 554 F. Supp. 2d 301, 307 (N.D.N.Y. 2008) (citation omitted). When a party fails to make specific objections, however, the court reviews the magistrate judge's report for clear error. *See id.*; *see also Gamble v. Barnhart*, No. 02CV1126, 2004 WL 2725126, *1 (S.D.N.Y. Nov. 29, 2004) (citations omitted).

Having reviewed Magistrate Judge Bianchini's Report and Recommendation and the applicable law, the Court concludes that Magistrate Judge Bianchini applied the appropriate legal standards and correctly determined that the ALJ's decision is unsupported by substantial

evidence and lacks sufficient specificity to be reviewable.

Accordingly, the Court hereby

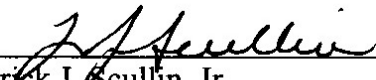
ORDERS that Magistrate Judge Bianchini's December 2, 2009 Report and Recommendation is **ADOPTED** in its entirety for the reasons stated therein; and the Court further

ORDERS that the Commissioner's decision denying disability benefits is **REVERSED** and this matter is **REMANDED** to the Commissioner, pursuant to sentence four of 42 U.S.C. § 405(g),¹ for further proceedings consistent with Magistrate Judge Bianchini's Report and Recommendation; and the Court further

ORDERS that the Clerk of the Court shall enter judgment and close this case.

IT IS SO ORDERED.

Dated: May 27, 2010
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge

¹ Sentence four of § 405(g) provides that "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." 42 U.S.C. § 405(g).